

CERP Guidance Memorandum

South Florida Water Management District – Jacksonville District, U.S. Army Corps Of Engineers

CGM NUMBER-REVISION: 024.00

EFFECTIVE DATE: 12/4/02

CATEGORY: General

SUBJECT: Environmental Justice in Everglades Restoration Planning

DESCRIPTION:

The U.S. Army Corps of Engineers (USACE) uses a six-step process for planning water resources projects. This process is prescribed in USACE regulations and is derived from the Principles and Guidelines of the Water Resources Council. USACE planning documents must also comply with the National Environmental Policy Act (NEPA), as well as many other environmental laws, regulations, and executive orders. The Corps planning and NEPA processes occur simultaneously.

This guidance memorandum briefly describes the six planning steps and NEPA requirements and their relationship with environmental justice. The environmental justice evaluation is a part of the plan formulation process and as such, receives consideration as one of many performance measures. Project planners, the public, and NEPA experts interact to formulate the final alternatives and select the recommended plan. Environmental justice requires robust and inclusive public participation process to fully include and understand the cultural aspects of the potentially affected communities.

GUIDANCE:

The Project Managers (PM) are responsible for all aspects of a project and as such will ensure that the Corps planning process is carried out concurrently with NEPA requirements to ensure that environmental justice concerns are fully addressed. The Corps' six-step planning process and corresponding NEPA requirements are presented below. These steps are iterative and may, as necessary, return to earlier steps to facilitate better planning results.

1. Identifying problems and opportunities (NEPA scoping initiated)
2. Inventorying and forecasting conditions (NEPA "existing conditions and future

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without project” identified). This inventory defines an environmental base line, the state of the environment prior to existence of the project, or prior to project modification. Forecasting predicts future environmental conditions out to the end of the project life. For water resources planning the project life is generally assumed to be 50 years. 50 years was the “project horizon” for the Comprehensive Review Study (Restudy). This phase includes an inventory of social and economic conditions in the project area, and should include identification of any minority or low-income groups.

3. Formulating alternative plans (NEPA describing alternatives—including a “no action alternative”). At this step, when base conditions and problems are known, various potential solutions to the problems are developed.
4. Evaluating alternative plans (NEPA comparing potential benefits and adverse effects of each alternative). Alternatives are evaluated based upon the criteria developed in the performance measures and other criteria in accordance with NEPA.
5. Comparing alternative plans (NEPA describing environmental effects of alternative plans). This step involves comparing positive and adverse effects, in light of cost and effectiveness and other impacts.
6. Selecting a plan (NEPA justifying recommended plan). This step involves the process by which a preferred plan is selected. Documentation includes demonstrating compliance with all applicable laws, including but not limited to the EJ Executive Order.

Incorporating Environmental Justice at the Project Level

Step 1. Identifying problems and opportunities. To address environmental justice issues, a project must involve full participation of low income and minority people and fully disclose any potential impacts that the project could cause. All CERP projects will require completion of appropriate NEPA documents (Environmental Impact Statement or Environmental Assessment). This will involve public announcement of the intent to publish the NEPA document in the Federal Register and public “scoping” of issues, concerns, and opportunities, kicked off by a letter from the Corps office, and often several public meetings or workshops. At this early project planning stage it is desirable to obtain wide and diverse participation of all stakeholders and potential stakeholders.

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This includes wide scoping and probably other public activities to achieve effective participation in the planning process. This should involve any stakeholder groups including minorities, low income or special ethnic groups. To ensure successful scoping the PDT will outline what they believe to be a potentially affected area based upon the concept for the proposed project and it is suggested the PDT write a Custom Outreach Plan prior to beginning the NEPA process.

The potentially affected area estimate is used to facilitate public outreach. Affected areas will include any lands potentially targeted for purchase. The EPA map titled “EPA’s Potential Environmental Justice Census Tracts in Region 4” can be consulted as one guide to help ensure the scoping process is indeed inclusive. The PDT should also do a census analysis, using block group level data, to determine if minorities, low income and Tribal communities are in the potentially affected area. These maps are available online at http://www.evergladesplan.org/pm/progr_eee_maps.shtml#maps. Community leaders from the population groups could be contacted if these populations are present. Other more specific outreach efforts should be attempted to facilitate contact with potentially affected populations. Outreach efforts and the success of the scoping process in reaching these specific populations should be documented for the NEPA document.

By identifying minority and low income stakeholders, through formal scoping and outreach, at the first, “scoping” phase of the planning/NEPA process, we hope to obtain the first directive of the Environmental Justice Executive Order, namely: **full participation of minorities** in the planning and decision making process and **full disclosure** of the purpose, scope and objectives of the study or project.

The second important purpose of Step 1 is to identify both human and natural resources in the study area. By actively seeking to identify and involve minority and low-income stakeholders in the process we also can identify population clusters or areas of predominantly minority/low income residents that may not be reflected in the census data. This will validate and refine the census data. This will be come more valuable as we draw away in time from the 2000 census.

Early identification of non-English speaking communities allows time to develop public outreach materials in Spanish (Creole, etc) or other required languages. It also allows planners to specifically plan to avoid or minimize any potentially adverse effects of the project on target groups. The project (Team leaders) should describe the potential effects in general terms. Even though environmental effects would not be fully known at

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this stage, the project should be described conceptually as a potential range of effects. A power point presentation using photos of built structures, sketches or graphics could document how potential effects were presented. Original descriptions of the project used to initially secure funding or any other existing approvals may be useful. Based upon the PDT and public input, environmental justice performance measures can be established for use in evaluating future alternatives.

Potential Tools: U.S. EPA Environmental Justice Potential Map, 2000 Census data, Outreach materials.

Potential Deliverables: Scoping meeting presentations or other scoping activities depicting similar projects and potential effects, new performance measures developed, attendance and correspondence documentation.

Step 2. Inventorying and forecasting conditions should involve preparing graphic materials showing population clusters, and projections of natural and human resource conditions into the future for the project life (50 years, generally). If we anticipate further demographic changes in the project area this is where we would do that analysis. Under NEPA, the environmental specialists will begin writing the “Description of Affected Environment” chapter of the NEPA document. A paragraph or section of the “Affected Environment” would describe the socio-economic environment, including minority or low income communities, their issues and concerns. The comments received during the public outreach efforts will facilitate understanding what the community expects. Their expectations are based, in part, on the conceptual descriptions of the projects. This information would then be reported on at the Feasibility Scoping Meeting (FSM).

Potential Tools: Meeting records and presentation materials.

Potential Deliverables: FSM report and portions of prepared documents.

Step 3. Formulating alternative plans would normally end in a set of preliminary alternative plans that could, once again, be shared with stakeholders in some kind of public forum. Because existing conditions have been inventoried and described, the planning team would be expected to use this description. One potential EJ performance measure is, “Does the project cause disproportionate, high and adverse affects on target communities?” Others may be “provides benefits to target communities” or “no target communities are adversely affected.” Since the location of these communities

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would be known from the EPA map, Census data and outreach conducted during scoping, the “inventory” phase of planning is done. In South Florida restoration, where so many of the projects involve creating alternative water storage reservoirs, at this stage the EJ criterion could be visualized as one of several screening measures to avoid siting project features, such as reservoirs or storm water treatment areas, in such a way as to divide minority/low income communities, or otherwise create high and adverse effects.

Normally, performance measures or criteria are developed by an interdisciplinary Project Delivery Team (PDT) early in the planning process, in Step 1. This team will define the goals and objectives of the project, and from these goals and objectives, develop measurable “performance measures” or “performance criteria,” standards against which the outputs of each alternative must be weighed. Most of the restoration projects will use multiple-criteria performance measures. There will be one or more for desired hydrology, one or more for desired flood control; one or more for cost; one or more for water quality; one or more for biological measures such as habitat, wetlands function, ecosystem restoration CERP-wide, ecosystem restoration in the project area, etc; one or more for agriculture, one or more for environmental justice and one or more for other socio-economic criteria (dislocation of businesses, separation of communities; loss of economic productivity, employment, etc.)

Potential Tools: Performance measure(s), GIS Map of effected area and a disproportionate impact analysis if effects are high and adverse.

Potential Deliverables: Project-specific EJ performance measures.

Step 4, Evaluating plans, is also an iterative, or repeated process. Each plan is evaluated in terms of how well it meets each and every performance measure or criterion. Some alternatives will be discarded or further developed in light of adverse effects. At this stage alternatives with unacceptably adverse environmental consequences (including adverse environmental justice consequences), should be eliminated or modified. This repeated process of evaluation, modification and re-evaluation, leads to step 5.

Potential Tools: Performance measure(s) and performance evaluation.

Potential Deliverables: Final Alternatives array, outputs matrix comparing alternatives

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Step 5. Comparing Alternative Plans. By this stage, an array of final alternatives will have been developed. Each of these alternatives will probably maximize performance for one or more criteria, but some will have poorer performance or less desirable consequences than others. Both the planning document and the NEPA document will compare these final alternatives in terms of their performance, and indicate which alternative is preferred. It would be expected that one or more alternatives may be preferable from the point of view of environmental justice, and these differences will be reported in the Report and NEPA document. Generally at this stage the Report and the draft NEPA document will be in final preparation stages, and it may be desired to hold one or more public meetings to present the alternatives to the stakeholders and receive comments. At this stage the draft PIR (the planning decision document) and the draft NEPA document will be in preparation.

Potential Tools: Meeting results, alternatives evaluation matrix and stakeholder comments on alternatives

Potential Deliverables: PIR Report section on Environmental Justice. NEPA document discussion on “Effects of Alternatives”, AFB documents.

Step 6. Select Recommended Plan. A plan will be selected for recommendation to the authorizing body in the USACE. At this time the PDT will prepare the Report description of the recommended plan, a discussion of the alternatives analysis and the major anticipated environmental effects of all final alternatives, and schedule an Alternatives Formulation Briefing (AFB) with USACE higher level review authority. Following the AFB the PIR/NEPA document will be prepared for public circulation and comment. There will be further public outreach activity that may consist of meetings, workshops or even formal hearings. Following a minimum 45-day circulation period, the PIR/NEPA document may be finalized. If the NEPA document is an EA, which results in a Finding of No Significant Impact (FONSI), the appropriate officer would sign the FONSI at this time. If the document is an EIS, it must be revised and finalized, public and agency comment must be responded to, and the document would be circulated again for an additional period of 30 days as a Final Environmental Impact Statement. After final comments are received and evaluated, the authorizing officer will sign a Record of Decision and the NEPA process is finished.

Figure 1 shows rough parallels in the interdisciplinary planning process, the environmental justice evaluation process as a subset of the planning, outreach and NEPA documentation processes, with arrows suggesting interactions.

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APPLICATION:

Environmental justice issues are an integral part, not only of environmental impact assessment, but of the planning process itself. While the President's Executive Order on Environmental Justice made this directive explicit, it is implicit in the National Environmental Policy Act and in planning regulations: USACE and SFWMD planners must conduct an objective evaluation of all project objectives in terms of their social and economic performance. The National Environmental Policy Act already requires full public participation in the planning and decision making process.

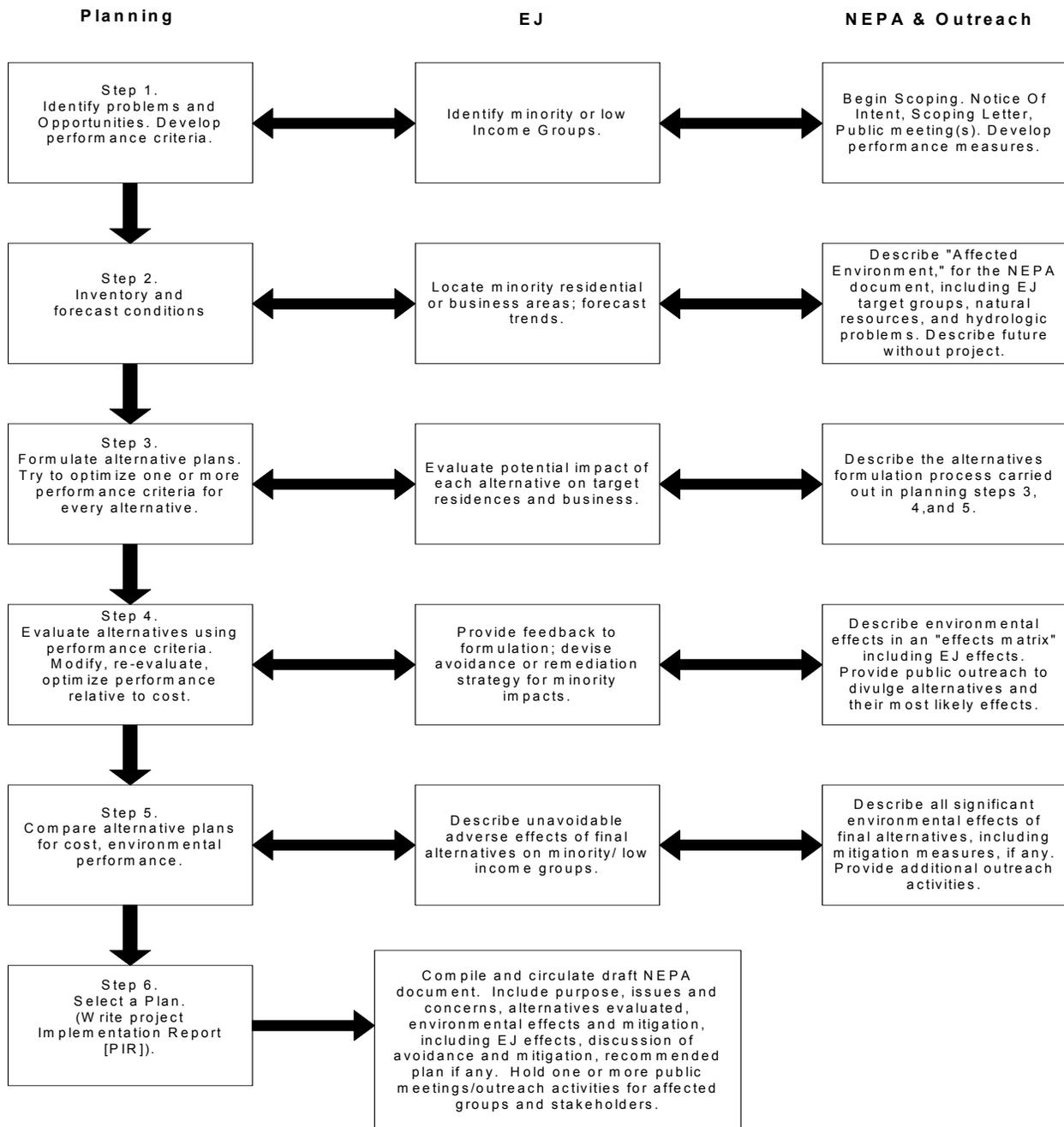
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Figure 1 – Planning, Environmental Justice, NEPA, and Outreach Processes



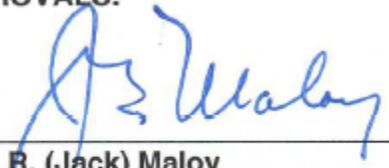
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